

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 03-40266 CBS

AMERICAN MANUFACTURERS MUTUAL  
INSURANCE COMPANY,

Plaintiff

v.

TOWN OF NORTH BROOKFIELD,

Defendant

AFFIDAVIT OF THOMAS W. McENANEY IN SUPPORT OF  
DEFENDANT'S OPPOSITION TO PLAINTIFF'S  
MOTION FOR SUMMARY JUDGMENT ON COUNT II OF COUNTERCLAIM

I, Thomas W. McEnaney, depose and state the following:

1. I am attorney at Kopelman and Paige, P.C. and counsel of record for the Town of North Brookfield in the above-captioned matter.
2. Attached hereto as Exhibit A are true and accurate copies of the following pages from the transcript of the Fed. R. Civ. P. 30(b)(6) deposition of American Manufacturers Mutual Insurance Company ("AMMIC"), Stephen J. Beatty designee: 17, 18-20, 21, 24, 26, 43, 51-52, 54-55, 59-60, 63, 64-65, 65-66, 68-69, 78, 179, 185-186, 197, 205-206.
3. Attached hereto as Exhibit B are true and accurate copies of the following pages from the transcript of the deposition of Richard P. Anastasio ("Anastasio"): 31-34, 47-48, 85, 96, 103, 133, 138, 139-140, 141, 152-154, 180-181.

4. Attached hereto as Exhibit C is a true and accurate copy of a letter dated November 19, 2002 from Springfield Steel Erectors, Inc. to Kemper Surety Company, which was marked as Deposition Exhibit 133 in the deposition of AMMIC.
5. Attached hereto as Exhibit D is a true and accurate copy of a proof of claim sent to Kemper Insurance Companies by Mark Equipment Corp., which was marked as Deposition Exhibit 134 in the deposition of AMMIC.
6. Attached hereto as Exhibit E is a true and accurate copy of a letter dated March 5, 2003 from Springfield Steel Erectors, Inc. to AMMIC, the Town and Sciaba, which was marked as Deposition Exhibit 137 in the deposition of AMMIC.
7. Attached hereto as Exhibit F is a true and accurate copy of a letter dated March 6, 2003 from Beatty to Sciaba, which was marked as Deposition Exhibit 138 in the deposition of AMMIC.
8. Attached hereto as Exhibit G is a true and accurate copy of a letter dated April 7, 2003 from American Equipment Rentals to AMMIC, which was marked as Deposition Exhibit 140 in the deposition of AMMIC.
9. Attached hereto as Exhibit H is a true and accurate copy of Request for Proposals prepared by AMMIC and/or Mr. Anastasio soliciting bids for a completion contractor, which was marked as Deposition Exhibit 168 in Anastasio deposition.

10. Attached hereto as Exhibit I is a true and accurate copy of Addendum 1 to the RFP, which was marked as Deposition Exhibit 169 in the Anastasio deposition.
11. Attached hereto as Exhibit J is a true and accurate copy of Fontaine's Form of Proposal dated September 8, 2003, which was marked as Exhibit 170 in the Anastasio deposition.
12. Attached hereto as Exhibit K is a true and accurate copy of an e-mail from Mr. Anastasio to Attorney Griffin and Mr. Beatty containing Fontaine's Best and Final Bid which was marked as Exhibit 174 in the Anastasio deposition.
13. Attached hereto as Exhibit L is a true and accurate copy of the Completion Contract dated December 15, 2003, which was marked as Exhibit 96 in the Fed. R. Civ. P. 30(b)(6) deposition of the Town.
14. On November 10, 2003, I had a telephone conference with Attorney Griffin.
15. Attached hereto as Exhibit M is a true and accurate copy of an e-mail from Attorney Griffin to Attorney McEnaney dated August 8, 2003.
16. Attached hereto as Exhibit N is a true and accurate copy of an e-mail from Attorney McEnaney to Attorney Griffin dated August 8, 2003.
17. Attached hereto as Exhibit O is a true and accurate copy of a letter dated September 4, 2003 from Attorney McEnaney to Attorney Griffin.
18. Attached hereto as Exhibit P is a true and accurate copy of an e-mail from Attorney Griffin to Attorney McEnaney dated September 10, 2003.
19. Attached hereto as Exhibit Q is a true and accurate copy of a letter from Attorney McEnaney to Attorney Griffin dated September 16, 2003.

20. Attached hereto as Exhibit R is a true and accurate copy of an e-mail from Attorney Griffin to Attorney McEnaney dated November 4, 2003.
21. Attached hereto as Exhibit S is a true and accurate copy of an e-mail from Attorney McEnaney to Attorney Griffin dated November 5, 2003.
22. Attached hereto as Exhibit T is a true and accurate copy of an e-mail from Attorney Griffin to Attorney McEnaney dated November 6, 2003.
23. Attached hereto as Exhibit U is a true and accurate copy of a fax from Attorney McEnaney to Attorney Griffin dated November 5, 2003 (sic) that was sent to Attorney Griffin on November 12, 2003.
24. Attached hereto as Exhibit V is a true and accurate copy of an e-mail from Attorney McEnaney to Attorney Griffin dated November 12, 2003.
25. Attached hereto as Exhibit W is a true and accurate copy of a letter from Attorney McEnaney to Attorney Griffin dated November 12, 2003.
26. Attached hereto as Exhibit X is a true and accurate copy of a letter from Attorney McEnaney to Attorney Griffin dated November 14, 2003.
27. Attached hereto as Exhibit Y is a true and accurate copy of a letter from Attorney Griffin to Attorney McEnaney dated November 21, 2003, which was marked as Exhibit 95 in the Fed. R. Civ. P. 30(b)(6) deposition of the Town.
28. Attached hereto as Exhibit Z is a true and accurate copy of a letter from Attorney McEnaney to Attorney Griffin dated November 25, 2003.
29. Attached hereto as Exhibit AA is a true and accurate copy of a letter from Attorney Griffin to Attorney McEnaney dated December 3, 2003.

30. Attached hereto as Exhibit BB is a true and accurate copy of a letter from Attorney Griffin to Attorney McEnaney dated December 12, 2003.
31. Attached hereto as Exhibit CC is a true and accurate copy of letter from Attorney McEnaney to Attorney Griffin dated December 5, 2003.
32. Attached hereto as Exhibit DD is a true and accurate copy of a letter from Attorney Griffin to Attorney McEnaney dated December 15, 2003.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 24th DAY  
OF JANUARY, 2006.

/s/ Thomas W. McEnaney  
Thomas W. McEnaney

271724/NBRO-HS/0019